

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
ST. REGIS PAPER COMPANY,

Appellant,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB No. 81-168

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER

This matter, the appeal from the assessment of \$2,000 in civil penalties for eight alleged violations of WAC 173-405-040(10), came before the Pollution Control Hearings Board, David Akana, presiding, and Nat W. Washington, at a formal hearing in Lacey, Washington, on March 23, 1982.

Respondent was represented by Charles K. Douthwaite, Assistant Attorney General; appellant was represented by its attorney Michael R. Thorp. Olympia court reporter Kim Otis recorded the proceedings.

1 Respondent's motion to dismiss for failing to timely file the  
2 appeal was taken under advisement by the Board. Appellant's post  
3 hearing brief was considered and notice was taken of the date of  
4 receipt of appellant's appeal by the Board.

5 Having heard the testimony, having examined the exhibits, and  
6 having considered the contentions of the parties, the Board makes these

7 FINDINGS OF FACT

8 I

9 Appellant St. Regis Paper Company owns and operates a kraft mill  
10 in Tacoma, Washington. In manufacturing wood pulp, appellant operates  
11 on a continuous basis. The instant matter focuses on the recovery  
12 system of the kraft process.

13 II

14 In the recovery system, the black liquor from the pulping process  
15 is concentrated by evaporation. The concentrated liquor is then  
16 burned in a recovery furnace resulting in the recovery of chemicals  
17 for reuse in the process and of heat for producing steam.

18 III

19 Appellant's recovery boiler No. 4 is equipped with a two-chamber  
20 electrostatic precipitator whose purpose is to remove particulate  
21 matter from the boiler exhaust gases. The matter collected is  
22 periodically removed from the hopper bottom by a number of screw  
23 conveyors.

24 During normal operations, exhaust gases pass through both  
25 chambers. If one chamber is not operational, the other can still

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER  
PCHB No. 81-168

1 clean the exhaust gases.

2 IV

3 Because of the interdependent nature of each function and  
4 operation in a continuous kraft process, starting up a mill after a  
5 holiday or maintenance shutdown takes a certain procedure and amount  
6 of time to accomplish. On July 16, 1981, appellant's mill was  
7 starting up after a holiday/maintenance shutdown. At 8:00 a.m., two  
8 recovery furnaces denominated No. 3 and 4, began burning oil to warm  
9 up and dry out the furnaces in preparation for burning black liquor.  
10 When it was discovered that Furnace No. 3 was not operating correctly,  
11 it was shut down. The No. 4 furnace, burning black liquor, then  
12 carried the production load.

13 V

14 At about 1:00 p.m. a screw conveyor on one chamber ("west pass")  
15 of the No. 4 electrostatic precipitator broke down. The exhaust gases  
16 were routed to the other chamber ("east pass"). The Puget Sound Air  
17 Pollution Control Agency (PSAPCA) was notified of the occurrence.  
18 Repair was started on the screw conveyor.

19 VI

20 At about 2:45 p.m. a screw conveyor on the other chamber (east  
21 pass) of the No. 4 electrostatic precipitator broke down. The belts  
22 on the conveyor and the electrical interlock of that system were not  
23 serviceable. Appellant's repair crew ascertained that repairs to the  
24 east pass would be more time consuming than repairs to the west pass  
25 and therefore continued to repair the west pass. During the following

1 eight-hour period, exhaust gases from the recovery boiler No. 4 were  
2 emitted without any air pollution control treatment while the mill  
3 continued production. The emissions exceeded the opacity limitations  
4 in WAC 173-405-040(10).

#### 5 VII

6 PSAPCA was notified of the breakdown of the east pass conveyor  
7 system. At the request of PSAPCA, appellant filed a written report  
8 describing the known causes of the breakdown and the measures taken to  
9 prevent a recurrence.

#### 10 VIII

11 After the repair crew was dispatched to the precipitator, the  
12 boiler black liquor combustion flow rate was reduced to 220 gallons  
13 per minute (gpm) which rate is below the normal rate of 250 gpm. The  
14 reduction in the flow rate reduced the amount of air pollution that  
15 could have been emitted during the breakdown period. Emissions could  
16 have been further reduced if oil had been substituted for black liquor  
17 as fuel. However, appellant's criteria for using oil are dependent on  
18 the steam demand and on the firing rate required, rather than reducing  
19 air pollution. The burning of black liquor is also an integral part  
20 of the kraft process and cannot be removed from the production cycle  
21 indefinitely unless the mill is also shut down.

#### 22 IX

23 Appellant's evidence suggests that the air pollution control  
24 equipment was maintained and operated properly and that repairs were  
25 made in an expeditious manner.

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER  
PCHB No. 81-168

1 X

2 Respondent considers that operation in a manner consistent with  
3 minimized emissions includes: 1) reducing the black liquor firing  
4 rate either to its lowest level or even further if supplementary fuel  
5 is used; 2) curtailing the firing of the recovery boiler and using  
6 stored chemicals to continue production; or 3) shutting down the  
7 mill. In respondent's view, any one of the above procedures could  
8 have been used to control excessive emissions with two sides of the  
9 precipitator out.

10 XI

11 Respondent has noted previous problems with appellant's screw  
12 conveyor and considers it a common malfunction of a dry-bottom  
13 precipitator design and indicative of an inadequate design. When  
14 operating properly, the precipitator system performs efficiently,  
15 however.

16 Appellant's evidence is that the air pollution equipment is the  
17 "best in the industry." The chance of the two precipitator chambers  
18 malfunctioning at the same time is "remote," but certainly possible as  
19 is here demonstrated.

20 There is no persuasive evidence that an incident, such as has  
21 occurred, is one in a recurring pattern.

22 XII

23 Appellant received notice of penalty (DE 81-544) on September 24,  
24 1981. Appellant mailed its appeal to this Board by certified mail,  
25 return receipt requested, on Friday, October 23, 1981. The 30-day  
26

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW & ORDER  
PCHB No. 81-168

1 appeal period ended on Saturday, October 24, 1981. The state mail  
2 service received the letter addressed to this Board containing  
3 appellant's appeal on Monday, October 26, 1981. The records show that  
4 the appeal was delivered to and actually received by the Board on  
5 Monday, October 26, 1981. The Board's stamped date of receipt of the  
6 appeal on Tuesday, October 27, 1981, is at variance with the state  
7 mail service records. The last day on which to file an appeal with  
8 the Board using WAC 371-08-235 was Monday, October 26, 1981.

9 XIII

10 Any Conclusion of Law which should be deemed a Finding of Fact is  
11 hereby adopted as such.

12 From these Findings the Board enters these

13 CONCLUSIONS OF LAW

14 I

15 An order issued by respondent is "final" unless the order is  
16 appealed to the Board within 30 days after it is received. RCW  
17 43.21B.120. An aggrieved person may appeal by "filing" a notice of  
18 the appeal within the 30-day period. RCW 43.21B.230.

19 The general rule is that a document is "filed" when it is actually  
20 received by the proper authority. See Hama Hama v. Shorelines  
21 Hearings Board, 85 Wn.2d. 441, 453 (1975).

22 Although the evidence is conflicting on the date of actual receipt  
23 of the appeal by the Board, we deem the receipt of the appeal to be  
24 timely.

II

Appellant violated WAC 173-405-040(10) as alleged for which the \$2,000 civil penalty was properly assessed unless the violation is excused under WAC 173-405-077 which provides:

Abnormal operations or upset conditions. (1)  
Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. An abnormal operation such as a startup or shutdown operation which can be anticipated must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards. Each kraft mill shall upon the request of the department or its designated agency, submit a full written report, including the known causes and the preventive measures to be taken to prevent a recurrence.

(2) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates and the department finds that:

(a) The incident was reported as required; and

(b) Complete details were furnished the department or agency; and

(c) Appropriate remedial steps were taken to minimize excessive emissions and their impact on ambient air quality; and

(d) The incident was unavoidable.

(3) If the conditions of (2) above are met, the incident is excusable and a notice of violation will not be issued.

(4) If any of the conditions of (2) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

(5) For the department to find that an incident of excess emissions is unavoidable, the kraft mill must submit sufficient information to demonstrate the

1 following conditions were met:

2 (a) The process equipment and the air pollution  
3 control equipment were at all times maintained and  
4 operated in a manner consistent with minimized  
5 emissions.

6 (b) Repairs or corrections were made in an  
7 expeditious manner when the operator knew or should  
8 have known that emission limitations were being or  
9 would be exceeded.

10 (c) The incident is not one in a recurring  
11 pattern which is indicative of inadequate design,  
12 operation or maintenance.

13 III

14 Both failure events were reported to PSAPCA with details required  
15 by WAC 173-405-077(1), (2)(a) and (b).

16 Appropriate repairs were taken with dispatch and emissions were  
17 reduced to a level below that which would have similarly occurred  
18 under normal production levels. Additional reductions have been shown  
19 to be possible by the use of supplementary fuel in lieu of some black  
20 liquor and thus, further minimize excessive emissions while  
21 maintaining production. Although there appear to be further steps  
22 that could have been taken by appellant with the benefit of hindsight,  
23 the steps taken at the time of the event were appropriate and did  
24 minimize excessive emissions using black liquor as the sole fuel.  
25 Also, appellant meets respondent's criteria (Finding of Fact X) for  
26 this event, but it would not in a future similar situation given its  
27 knowledge of steps to be taken to minimize excessive emissions. We  
28 conclude that appellant meets WAC 173-405-077(2)(c) and (5)(b).

29 Appellant has established a maintenance schedule and operating



1 procedure which allows the process equipment and air pollution control  
2 equipment to function normally without emission violations. The  
3 instant events were the result of broken equipment. The incidents  
4 were isolated occurrences and not shown to be in a recurring pattern.  
5 Accordingly, we conclude that the incidents were "unavoidable." WAC  
6 173-405-077(2)(d) and (5).

7 IV

8 We conclude that the incidents on appeal were excusable, and a  
9 notice of violation and penalty should not have been issued.

10 V

11 Any Finding of Fact which should be deemed a Conclusion of Law is  
12 hereby adopted as such.

1 From these Conclusions the Board enters this

2 ORDER

3 The \$2,000 civil penalty is reversed.

4 DONE this 14<sup>th</sup> day of May, 1982.

5 POLLUTION CONTROL HEARINGS BOARD

6  
7 Nat W. Washington  
8 NAT W. WASHINGTON, Chairman

9  
10 David Akana  
11 DAVID AKANA, Lawyer Member